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CrI.O.P.No.20885 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.20885 of 2022
and CrI.O.P.No.13670 of 2022

Radj Kumar Gil

... Petitioner

Vs.

Kathirvel

... Respondent

Prayer : Criminal Original Petition has been filed under Section 407 r/w. 482 of Criminal Procedure Code to withdraw the case pending in STC.No.1169 of 2022 on the file of the Judicial Magistrate No.III, Puducherry and transfer the same to any other Court of competent jurisdiction outside Puducherry.

For Petitioner : Mr.B.Sanjay Balachandar
for Mr.K.Suresh Babu

For Respondent : Mr.C.Anbarasan
for Mr.S.Kumaran

ORDER

The petitioner filed this Criminal Original Petition seeking to transfer



CrI.O.P.No.20885 of 2022

the case in S.T.C.No.1169 of 2022 pending on the file of the learned Judicial Magistrate No.III, Puducherry to any other Court of competent jurisdiction outside Puducherry.

2.The contention of the petitioner is that S.T.C.No.1169 of 2022 has been filed under Sections 138 and 142 of Negotiable Instruments Act alleging that the petitioner borrowed a sum of Rs.14,00,000/- by issuing three post dated cheques. He would submit that the respondent in this case is none other than Secretary of Puducherry Bar Association. The specific allegation by the petitioner is that the respondent with the help of one Arulmani and Sivaprakasam who are Police personnels attached to Kalapet Police Station were instrumental in obtaining cheques forcibly from the petitioner without any liability. The petitioner earlier moved writ petition against the Police personnels in W.P.No.723 of 2022. Since the petitioner has been vehemently resisting the moves of the respondent and his associates, the petitioner is unable to engage counsel of his choice to defend him before the Court. The petitioner had already lodged a complaint with Bar Council of Tamil Nadu and Puducherry against the nexus of the



CrI.O.P.No.20885 of 2022

respondent. He further submits that he apprehends life threat and hence in the interest of justice, the case in S.T.C.No.1169 of 2022 pending before the learned Judicial Magistrate No.III, Puducherry to be transferred to some other Court outside Puducherry.

3.Heard Mr.B.Sanjay Balachandar, learned counsel representing Mr.K.Suresh Babu, learned counsel appearing on behalf of the petitioner.

4.Mr.E.Abarasan, learned counsel representing the learned counsel for the respondent submitted that the petitioner had been making false allegations against the respondent and he had been dragging on the proceedings in S.T.C.No.1169 of 2022 from the year 2022 without any progress. He would submit that summons were issued to the petitioner almost a year before on 21.07.2022, the petitioner appeared for questioning on 19.08.2022 and thereafter the case has been periodically adjourned for some reasons. On 07.03.2023, the petitioner filed a memo stating about the pendency of the transfer petition and thereafter, successfully dragging on the proceedings without any progress. He further submits that the petitioner in



CrI.O.P.No.20885 of 2022

fact on one occasion i.e. on 28.01.2023 the petitioner engaged an Advocate and recalled NBW issued against him. The petitioner's allegation that no Advocate is free to appear for the petitioner is only a ploy to somehow delay the trial and also to cause aspersion against the respondent. He further submits that in the affidavit before this Court wild allegations were made as though the respondent would influence the Judicial Officer to pass orders in his favour. Apart from this, the petitioner is facing several other cases against him and in all the case he is engaging Advocates and defending him. He fairly submit that the respondent is willing to conduct the case before any Court, his only concern is that false allegation made by the petitioner should not affect his career and further prays for early disposal of the case. He further submit that the respondent has got good reputation by his hard work and sincere devotion to his profession.

5.Learned counsel appearing for the petitioner submitted that the petitioner will not be reason for the delay in completing the case in any manner.



CrI.O.P.No.20885 of 2022

6.Considering the submissions made and on perusal of the materials,

it is not in dispute that the respondent/complainant in S.T.C.No.1169 of 2022 is the Secretary of Puducherry Bar Association. From the summary of case taken from online, it is seen that the petitioner is yet to engage an Advocate which probabalize that the petitioner is unable to engage an Advocate of his choice. In this case, the trial is yet to be commenced. Therefore, this Court is of the view that the principle “Justice must not only be done, but must also be seen to be done” should be adhered to. Hence, this Court is inclined to transfer the case in S.T.C.No.1169 of 2022 from the file of the learned Judicial Magistrate No.III, Puducherry to the learned Judicial Magistrate, Vanur which would be more appropriate and ensure dispensation of fair justice.

7.Accordingly, the case in S.T.C.No.1169 of 2022 pending on the file of the learned Judicial Magistrate No.III, Puducherry is transferred to the file of the learned Judicial Magistrate, Vanur. The learned Magistrate is directed to complete the trial preferably within a period of six months from the date on which the case is taken on file.



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CrI.O.P.No.20885 of 2022

8.With the above direction, the Criminal Original Petition stands disposed of. Consequently connected M.P. is closed.

14.06.2023

Index : Yes/No
Speaking Order/Non-Speaking Order
cse

To

1.The Judicial Magistrate No.III,
Puducherry.

2.The Judicial Magistrate,
Vanur.



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CrI.O.P.No.20885 of 2022

M.NIRMAL KUMAR, J.

cse

CrI.O.P.No.20885 of 2022

14.06.2023